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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,429	10/16/2003	Aram Kovach	065061.00003	8030

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ELEY LAW FIRM CO.  
7870 OLENTANGY RIVER RD  
SUITE 311  
COLUMBUS, OH 43235

EXAMINER
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SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/687,429	<b>Applicant(s)</b> KOVACH, ARAM	
	<b>Examiner</b> Cristina Owen Sherr	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.  
2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to the application filed October 16, 2003.

Claims 1-10 have been examined in this case.

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al (US 6,837,436).

5. Regarding claim 1 –

Swartz discloses a method for tracking and disposition of articles, comprising the steps of:

a) coding at least one RF1D tag with a unique identifier, the identifier being electronically stored in a memory portion of the RFD tag; (e.g. 2 ln 10-25).

b) affixing at least one RFD tag to at least one article of merchandise; (e.g. col 2 ln 30-45)

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c) electrically scanning a select RFD tag to obtain the select identifier; (e.g. col 3 ln 1-20)

d) communicating the select identifier to an inventory record of a point of distribution and incrementing an inventory quantity of the point of distribution; (e.g. col 3 ln 30-40)

e) electrically scanning the article of merchandise when it is scheduled to be removed from the point of distribution to obtain the select identifier from the RFD tag; (e.g. col 3 ln 40-50) and

f) removing the select identifier from the inventory record and updating the inventory record at the point of distribution to reflect the removal of the article of merchandise (e.g. col 2 ln 10 – col 3 ln 55).

6. Although Swartz does not specifically disclose the steps of the instant application, mere reordering or renaming of steps would be obvious to one of ordinary skill in the art for use when necessary to obtain greater economy or efficiency and therefore does not confer patentability.

7. Regarding claims 2-3 –

Swartz discloses the method of claim 1 wherein the point of distribution is a retail store; comprising the steps of a) providing at least one customer with an account; b) providing the customer with a card to enable the customer to charge purchases against the account, the card further comprising an RFD tag having customer-specific information; c) electrically scanning the customer's merchandise selections at a check-out point of the store to obtain merchandise-specific information; d) electrically scanning the customer's card to obtain the customer's account information; e) obtaining personal

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identification information from the customer for verifying the customer's identity; f) upon verification of the customer's identity, providing the customer with the option of at least one of charging the selections to the customer's account, writing a check, and paying cash; and g) maintaining a record of customer-specific purchases. (e.g. col 2 ln 10 – col 3 ln 55).

8. Regarding claim 4 –

Swartz discloses a method for selling articles in a retail store, comprising the steps of

a) providing at least one customer with an account; (e.g. col 2 ln 30-45)

b) providing the customer with a card to enable the customer to charge purchases against the account, the card further comprising an RFD tag having customer-specific information; (e.g. col 3 ln 30-40)

c) electrically scanning the customer when the customer is in proximity to a display to obtain the customer's identity and account information from the RFD tag; (e.g. col 3 ln 40-50) and

d) providing a customer-specific message to the customer via the display (e.g. col 2 ln 10 – col 3 ln 55).

9. Although Swartz does not specifically disclose the steps of the instant application, mere reordering or renaming of steps would be obvious to one of ordinary skill in the art for use when necessary to obtain greater economy or efficiency and therefore does not confer patentability.

10. Regarding claims 5-6 –

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Swartz discloses the method of claim 4 wherein the customer-specific message is a personalized greeting; and wherein the customer-specific message is an advertisement corresponding to the customer's past purchasing preferences (e.g. col 2 ln 10 – col 3 ln 55).

11. Although Swartz does not specifically disclose the steps of the instant application, mere reordering or renaming of steps would be obvious to one of ordinary skill in the art for use when necessary to obtain greater economy or efficiency and therefore does not confer patentability.

12. Regarding claim 7 –

Swartz discloses a method for tracking and disposition of articles, comprising the steps of:

- a) coding at least one RFID tag with a unique identifier, the identifier being electronically stored in a memory portion of the RFID tag; (e.g. col 2 ln 30-45)
- b) affixing at least one RFID tag to at least one article of merchandise; (e.g. col 2 ln 40-55)
- c) writing to a select RED tag to set a status code indicating that the merchandise is unsold; (e.g. col 2 ln 50-65)
- d) electrically scanning the select RED tag to obtain the select identifier; (e.g. col 3 ln 1-20)
- e) communicating the select identifier to an inventory record of a store and incrementing an inventory quantity of the store; (e.g. col 3 ln 20-35)

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f) electrically scanning the article of merchandise when it is sold to obtain the select identifier from the RFID tag; (e.g. col 3 ln 10-25)

g) writing to the select RFID tag to change the status code to indicate that the merchandise has been sold; (e.g. col 3 ln 40-55) and

h) removing the select identifier from the inventory record and decrementing the inventory quantity (e.g. col 2 ln 10 – col 3 ln 55).

13. Although Swartz does not specifically disclose the steps of the instant application, mere reordering or renaming of steps would be obvious to one of ordinary skill in the art for use when necessary to obtain greater economy or efficiency and therefore does not confer patentability.

14. Regarding claims 8-9 –

Swartz discloses a method according to claim 7, further comprising the steps of a) scanning a select RFID tag placed in proximity to an entry and/or exit point of the store to obtain the identifier information for the select RFID tag; b) comparing the identifier information of the select RFID tag to the inventory record; and c) generating a perceivable alert signal if the select RFID tag is listed in the inventory record; further comprising the steps of a) scanning a select RED tag placed in proximity to an entry and/or exit point of the store to obtain the status code information for the select RFID tag; and b) generating a perceivable alert signal if the status code indicates that the merchandise affixed to the select RFID tag is unsold (e.g. col 2 ln 10 – col 3 ln 55).

15. Regarding claim 10 –

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Swartz discloses a method for tracking and disposition of articles, comprising the steps of

- a) maintaining a record of the identifiers of RFID tags corresponding to unsold merchandise no longer in a store's inventory record; (e.g. col 2 ln 30-45)
- b) electrically scanning the entrances and/or exits to the store for the identifiers of all RED tags in proximity to the entrances and/or exits; (e.g. col 2 ln 45-65)
- c) when a select RFID tag is detected, electrically scanning the RFID tag to obtain the identifier of the tag; (e.g. col 3 ln 1-10)
- d) comparing the identifier of the each of the RED tags to the store's record of unsold merchandise; (e.g. col 3 ln 20-40) and
- e) generating an perceivable alert signal if the comparison of any of the identifiers of RFID tags matches those of unsold merchandise (e.g. col 2 ln 10 – col 3 ln 55).

16. Although Swartz does not specifically disclose the steps of the instant application, mere reordering or renaming of steps would be obvious to one of ordinary skill in the art for use when necessary to obtain greater economy or efficiency and therefore does not confer patentability.

17. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part



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of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. Silverbrook et al (US 2004/0238627) disclose a card for facilitating user interaction.

20. Silverbrook et al (US 2004/0195321) discloses product item status.

21. Ebert et al (US 2003/0227392) disclose context-aware and real-time item tracking system architecture and scenarios.

22. Ananian (US 2003/0028451) discloses personalized interactive digital catalog profiling.

23. Swan et al (US 6,901,304) discloses item tracking system architectures providing real-time visibility to supply chain.

24. Balent (US 2003/0158796) discloses distributed personal automation and shopping method, apparatus, and process.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

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26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Chlorine June 2*  
*PRIMARY EXAMINER*